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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/601,773	06/23/2003	Edward A. Youngs	020366-067210US	9495
20350	7590	04/05/2006	EXAMINER	
TOWNSEND AND TOWNSEND AND CREW, LLP TWO EMBARCADERO CENTER EIGHTH FLOOR SAN FRANCISCO, CA 94111-3834			STEIN, JULIE E	
			ART UNIT	PAPER NUMBER
			2617	
DATE MAILED: 04/05/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/601,773	YOUNGS ET AL.	
	Examiner	Art Unit	
	Julie E. Stein, Esq.	2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 17 January 2006.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 30-49 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 30-49 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 23 June 2003 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The Art Unit location of your application in the USPTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Art Unit 2617.

Response to Amendment

2. In response to the amendment filed 1/17/06, all previous rejections and objections are withdrawn.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 30-49 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claims contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention.

5. In claim 30, the steps of determining whether the requested media program is presently being broadcasted and establishing a first wireless channel based upon the determination are both new matter. The Examiner can not find this subject matter within the originally filed application and Applicant did not indicate where the subject matter could be found in the most recently filed amendment.

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6. In addition, in claim 40, the wherein clause contains the step of configuring the source provider in response to a request for a media program and determining whether the requested media program is presently being broadcasted, which is also new matter, as indicated above.

7. Also, the Examiner can not find any support in the originally filed application for claim 44, including that the source provider is the wireless network.

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. Claims 36 to 30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

10. Claim 36 is indefinite because it recites "a first cell site coverage area," as does claim 30 (at least one cell site coverage area) from which it depends and thus it is unclear whether the "first cell site coverage area" referred to in claim 36 is one of the "at least one cell site coverage area(s)" recited in claim 30.

Claim Rejections - 35 USC § 102

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

11. Claims 30 to 49 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,169,894 to McCormick et al.

McCormick discloses all the steps of independent claim 30, including a method for providing transmission of a selected media program to a plurality of wireless handsets deployed in a wireless network having at least one cell site coverage area associated therewith (Abstract and Figure 1), the method comprising:

receiving a request to receive a selected media program from a first wireless handset (Figure 3, steps 300 and column 6, lines 17 to 27);

determining whether the requested media program is presently being broadcasted on a wireless channel in the wireless network (Figure 3, step 310 and column 6, lines 30 to 37);

based upon said determination, establishing a first wireless channel upon which to broadcast the selected media program (Id.);

receiving a request to receive the same selected media program from a second wireless handset (inherent based on column 6, lines 59 to 66, as the reference discloses that multiple users may use the same broadcast channel, therefore receiving a request is repeated multiple times); and

providing the selected media program to the second wireless handset (Id.).

The rejection of claim 30 is hereby incorporated. McCormick discloses all the elements of independent claim 40, including a system for providing transmission of a selected media program to a plurality of wireless handsets deployed in a wireless network having at least one cell site coverage area associated therewith (Abstract and Figure 1), the system comprising:

a source provider (Figure 3, local cell) configured to receive a transmission of a media program (column 3, lines 39 to 44) from at least one media program provider (inherent based on the media program information supplied in column 3, lines 39 to 44), the source provider (local cell) being further operative to simultaneously broadcast the selected media program (column 3, lines 39 to 44) to each of at least two wireless handsets (Figure 1) via a single wireless channel (column 5, lines 20 to 40); and

a wireless network configured to broadcast the selected media program from the source provider to the at least two wireless handsets (Figure 1);

wherein the source provider is further configured to, in response to a request for a requested media program, determine whether the requested media program is presently being broadcast on a wireless channel (Figure 3, steps 300 to 315).

McCormick discloses all the steps/elements of dependent claims 31 and 47, including, wherein the selected media program comprises a selection from a group consisting of: a cable program, a television program, a satellite program, and a radio program (column 3, lines 39 to 44).

McCormick discloses all the steps/elements of dependent claims 32 and 45, including wherein the selected media program comprises a pre-recorded media program (Id.).

McCormick discloses all the steps/elements of dependent claims 33 and 46, including wherein the selected media program comprises a real-time transmission (Id.).

McCormick discloses all the steps/elements of dependent claims 34 and 48, including wherein the selected media program comprises a selection from a group consisting of: audio program (Id.), video program, and data transmission (Id.).

McCormick discloses all the steps of dependent claim 35, including wherein the second wireless handset and the first wireless handset are located in the same cell site coverage area (column 5, lines 20 to 40) and wherein providing the selected media program to the second wireless handset comprises providing the selected media program to the second wireless handset via the first wireless channel (Id.).

McCormick discloses all the steps of dependent claim 36, including, wherein the first wireless channel is comprised by a first cell site coverage area associated with the wireless network (Id. and Figure 1).

McCormick discloses all the steps of dependent claim 37, including where the second wireless handset is located outside the first cell site coverage area (Figure 1), the method further comprising:

establishing a second wireless channel upon which to broadcast the selected media program (column 5, lines 20 to 40).

McCormick discloses all the steps of dependent claim 38, including wherein the second wireless handset is located inside the first cell site coverage area (Figure 1), the method further comprising:

establishing a second wireless channel upon which to broadcast the selected media program (column 5, lines 20 to 40).

McCormick discloses all the steps/elements of dependent claims 39 and 42, including multiplexing (inherent in view of column 6, line 35) the media program onto the first and second wireless channels (column 5, lines 20 to 40).

McCormick discloses all the elements of dependent claim 41, including wherein the at least two wireless handsets include a first wireless handset and a second wireless handset (Figure 1) and wherein the source provider (local cell), in simultaneously broadcasting the requested media program, is further operative to simultaneously broadcast the requested media program to the first and second wireless handsets via first and second wireless channels (column 5, lines 20 to 40), respectively, wherein the second wireless channel is different from the first wireless channel (Id.).

McCormick discloses all the elements of dependent claim 43, including wherein the at least two wireless handsets include a first wireless handset and a second wireless handset (Figure 1) and wherein the source provider (local cell), in simultaneously broadcasting the requested media program, is further operative to simultaneously broadcast the requested media program to both the first and second wireless handsets via a first wireless channel (column 5 lines 20 to 40).

McCormick discloses all the elements of dependent claim 44, wherein the source provider is the wireless network (local cell and Figure 1).

McCormick discloses all the elements of dependent claim 49, wherein the wireless network communication scheme comprises a selection from a group consisting of: TDMA, FDMA, and CDMA (column 6, line 35).

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Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent No. 6,026,289 to Zellner et al. teaches a method and system for broadcasting information to wireless users.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julie E. Stein, Esq. whose telephone number is (571) 272-7897. The examiner can normally be reached on M-F (8:30 am-5:00 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, George Eng can be reached on (571) 272-7495. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JES

RES

George Eng
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SUPERVISORY PATENT EXAMINER